

Senate File 341

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1 3 AN ACT
1 4 REGULATING THE BALANCE OF COMPETITIVE FORCES IN SWINE AND BEEF
1 5 PRODUCTION BY ENHANCING THE WELFARE OF THE FARMING COMMUNITY
1 6 AND BY PREVENTING PROCESSORS FROM GAINING CONTROL OF BEEF OR
1 7 SWINE PRODUCTION, PROVIDING FOR THE TRANSFER OF PROVISIONS,
1 8 MAKING A PENALTY APPLICABLE, AND PROVIDING FOR AN EFFECTIVE
1 9 DATE.
1 10
1 11 BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF IOWA:
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1 13 DIVISION I
1 14 REGULATION OF PROCESSORS
1 15 Section 1. Section 9H.1, Code 2003, is amended by adding
1 16 the following new subsection:
1 17 NEW SUBSECTION. 26A. "Person" means an individual,
1 18 business association, government or governmental subdivision
1 19 or agency, or any other legal entity.
1 20 Sec. 2. Section 9H.1, subsection 29, unnumbered paragraph
1 21 1, Code 2003, is amended to read as follows:
1 22 "Retailer" means a person who is engaged in the business of
1 23 selling pork products ~~in this state~~, if all of the following
1 24 apply:
1 25 Sec. 3. Section 9H.1, subsection 32, Code 2003, is amended
1 26 to read as follows:
1 27 32. "Swine producer" means a person who owns, controls, or
1 28 operates a swine operation ~~in this state~~ or who contracts for
1 29 the care and feeding of swine ~~in this state~~.
1 30 Sec. 4. Section 9H.2, unnumbered paragraph 1, Code 2003,
1 31 is amended to read as follows:
1 32 The purpose of this section is to preserve free and private
1 33 enterprise, prevent monopoly, and also to protect consumers by
1 34 regulating the balance of competitive forces in beef and swine
1 35 production, by enhancing the welfare of the farming community,
2 1 and also by preventing processors from gaining control of beef
2 2 or swine production.
2 3 Sec. 5. Section 9H.2, subsection 1, paragraph b,
2 4 subparagraph (2), Code 2003, is amended to read as follows:
2 5 (2) Directly or indirectly contract for the care and
2 6 feeding of swine in this state. ~~However, this subparagraph~~
2 7 ~~does not apply to a cooperative association organized under~~
2 8 ~~chapter 497, 498, 499, or 501, if the cooperative association~~
2 9 ~~contracts for the care and feeding of swine with a member of~~
2 10 ~~the cooperative association who is actively engaged in~~
2 11 ~~farming. This subparagraph does not apply to an association~~
2 12 ~~organized as a cooperative in which another cooperative~~
2 13 ~~association organized under chapter 497, 498, 499, or 501 is a~~
2 14 ~~member, if the association contracts with a member which is a~~
2 15 ~~cooperative association organized under chapter 497, 498, 499,~~
2 16 ~~or 501, which contracts for the care and feeding of swine with~~
2 17 ~~a member of the cooperative who is actively engaged in~~
2 18 ~~farming.~~
2 19 Sec. 6. Section 9H.2, subsection 4, Code 2003, is amended
2 20 to read as follows:
2 21 4. A processor which was in compliance with this section
2 22 prior to April 5, 2000, and which was in violation of this
2 23 section as a result of 2000 Iowa Acts, chapter 1048, shall
2 24 have until June 30, ~~2004~~ 2006, to comply with 2000 Iowa Acts,
2 25 chapter 1048. A processor shall not take action on or after
2 26 April 5, 2000, which would be in violation of this section.
2 27 Sec. 7. Section 9H.2A, Code 2003, is amended by adding the
2 28 following new subsection:
2 29 NEW SUBSECTION. 0A. A cooperative association which is a
2 30 party to a contract for the care and feeding of swine in
2 31 compliance with section 9H.2 prior to the effective date of
2 32 this Act, and which is in violation of section 9H.2, as
2 33 amended by this Act, shall have until June 30, 2007, to comply
2 34 with section 9H.2, as amended by this Act.
2 35 Notwithstanding any provision of this section, a
3 1 cooperative association shall not take an action on or after
3 2 the effective date of this Act that would be in violation of
3 3 section 9H.2, as amended by this Act.
3 4 Sec. 8. Section 9H.2A, subsections 1 through 3, Code 2003,
3 5 are amended to read as follows:

3 6 1. A processor that was in compliance with section 9H.2,
3 7 Code 2001, prior to January 1, 2002, and which is in violation
3 8 of section 9H.2, as amended by ~~this Act 2002 Acts, chapter~~
3 9 ~~1095~~, shall have until June 30, ~~2004~~ 2006, to comply with
3 10 section 9H.2, as amended by ~~this Act 2002 Acts, chapter 1095~~.
3 11 2. Notwithstanding any provision of this section, a
3 12 processor shall not take an action on or after January 1,
3 13 2002, that would be in violation of section 9H.2, as amended
3 14 by ~~this Act 2002 Acts, chapter 1095~~.
3 15 3. The two-year period that a person who holds an
3 16 executive position in a processor or owes a processor a
3 17 fiduciary duty and thus is deemed to be a processor as
3 18 provided in section 9H.1, subsection 27, paragraph "b", shall
3 19 not apply if the person held the position or owed the duty on
3 20 January 1, 2002, and relinquishes the position or duty on or
3 21 before June 30, ~~2004~~ 2006.
3 22 Sec. 9. Section 9H.2A, subsection 4, Code 2003, is amended
3 23 by striking the subsection.
3 24 Sec. 10. Section 9H.1, subsection 28, paragraph c, Code
3 25 2003, is amended to read as follows:
3 26 c. Not less than ~~twenty-five~~ ~~ten~~ percent of the swine
3 27 slaughtered by the processor each day are purchased through
3 28 cash or spot market purchases ~~from sellers of swine who do not~~
3 29 ~~hold a direct or indirect interest in the processor.~~
3 30 d. ~~The processor makes cash or spot market purchases of~~
3 31 ~~swine under the same terms and conditions from both sellers of~~
3 32 ~~swine who hold a direct or indirect interest in the processor~~
3 33 ~~and sellers of swine who do not hold a direct or indirect~~
3 34 ~~interest in the processor. In making such cash or spot market~~
3 35 ~~purchases of swine, the processor shall not provide sellers of~~
4 1 ~~swine who hold a direct or indirect interest in the processor~~
4 2 ~~with a preference over sellers of swine who do not hold a~~
4 3 ~~direct or indirect interest in the processor.~~
4 4 DIVISION II
4 5 TRANSFER AND ELIMINATION OF CODE PROVISIONS FOR PURPOSES OF
4 6 ENHANCING READABILITY
4 7 Sec. 11. Section 9H.1, Code 2003, is amended by adding the
4 8 following new subsection:
4 9 NEW SUBSECTION. 22A. "Indirect" means to act or attempt
4 10 to accomplish an act through an interest in a business
4 11 association, through one or more affiliates or intermediaries,
4 12 or by any method other than a direct approach, including by
4 13 any circuitous or oblique method.
4 14 Sec. 12. NEW SECTION. 9H.3A PENALTIES == INJUNCTIVE
4 15 RELIEF.
4 16 The courts of this state may prevent and restrain
4 17 violations of this chapter through the issuance of an
4 18 injunction. The attorney general or a county attorney shall
4 19 institute suits on behalf of the state to prevent and restrain
4 20 violations of this chapter.
4 21 Sec. 13. Section 9H.14, Code 2003, is amended to read as
4 22 follows:
4 23 9H.14 DUTIES OF SECRETARY OF STATE.
4 24 The secretary of state shall notify the attorney general
4 25 when the secretary of state has reason to believe a violation
4 26 of this chapter has occurred. It is the intent of this
4 27 section that information shall be made available to members of
4 28 the general assembly and appropriate committees of the general
4 29 assembly in order to determine the extent of ~~farming~~
4 30 ~~production operations~~ being carried out in this state by
4 31 ~~corporations and other business entities contract feeders and~~
4 32 ~~processors~~ and the effect of such ~~farming~~ practices upon the
4 33 economy of this state. The reports of ~~corporations, limited~~
4 34 ~~liability companies, limited partnerships, trusts,~~
4 35 ~~contractors, and contract feeders and processors~~ required in
5 1 this chapter shall be confidential reports except as to the
5 2 attorney general for review and appropriate action when
5 3 necessary. The secretary of state shall assist any committee
5 4 of the general assembly existing or established for the
5 5 purposes of studying the effects of this chapter and the
5 6 practices this chapter seeks to study and regulate.
5 7 Sec. 14. Section 10B.4A, unnumbered paragraph 1, Code
5 8 2003, is amended to read as follows:
5 9 The secretary of state shall not prepare or distribute
5 10 forms for reports or file reports otherwise required pursuant
5 11 to section ~~9H.5A~~, 9I.87 or 501.103. A person required to file
5 12 a report pursuant to this chapter is not required to file a
5 13 report under those sections.
5 14 Sec. 15. Section 331.756, subsection 33, Code 2003, is
5 15 amended to read as follows:
5 16 33. Institute legal procedures on behalf of the state to

5 17 prevent violations of the corporate or partnership farming
5 18 laws as provided in section 9H.3 chapter 9H or 202B.

5 19 Sec. 16. DIRECTIONS TO CODE EDITOR.

5 20 1. The purpose of this section is only to enhance the
5 21 readability of provisions of the Code, and shall not be
5 22 construed as a measure intended to accomplish any substantive
5 23 change in the law or its statutory construction.

5 24 2. The Code editor is directed to transfer provisions in
5 25 chapter 9H to a new chapter 202B, consistent with the
5 26 authority of the Code editor pursuant to chapter 2B, as
5 27 follows:

5 28 a. For consolidation into the first subchapter of new
5 29 chapter 202B, the following shall apply:

5 30 (1) The following provisions shall be transferred:

5 31 (a) Section 9H.2, unnumbered paragraph 1, as amended by
5 32 this Act, which shall be codified as a new section. The Code
5 33 editor shall substitute the term "chapter" for "section" in
5 34 the law text.

5 35 (b) Section 9H.1, subsections 6, 8, 9, 10, 11, 12, 13, 22,
6 1 27, and 31, which shall be codified as a new section. Section
6 2 9H.1, subsection 26A, as enacted in this Act, shall be
6 3 codified in the same section. Section 9H.1, subsections 28,
6 4 29 and 32, as amended by this Act, shall be codified in that
6 5 same section.

6 6 (2) The subsections of section 9H.1, as consolidated into
6 7 a new section, shall be preceded by an unnumbered paragraph 1,
6 8 stating the following: "As used in this chapter, unless the
6 9 context otherwise requires:".

6 10 b. For consolidation into the second subchapter of new
6 11 chapter 202B, the following provisions shall be transferred:

6 12 (1) Section 9H.2, subsections 1 through 3, as amended by
6 13 this Act.

6 14 (2) Section 9H.2A, as amended by this Act. Section 9H.2,
6 15 subsection 4, shall be transferred and codified as a new
6 16 subsection in section 9H.2A as transferred.

6 17 c. For consolidation into the third subchapter of new
6 18 chapter 202B, the following sections shall be transferred:
6 19 9H.5B, 9H.9, 9H.10, and 9H.15; and section 9H.14 as amended by
6 20 this Act.

6 21 d. For consolidation into the fourth subchapter of new
6 22 chapter 202B, the following sections shall be transferred:
6 23 9H.3 and 9H.11.

6 24 3. The Code editor is directed to transfer section 9H.6 to
6 25 chapter 10B.

6 26 4. In consolidating and transferring provisions, the Code
6 27 editor shall not provide references in the law text of a
6 28 section of chapter 9H to new chapter 202B.

6 29 Sec. 17. Section 9H.5A, Code 2003, is repealed.

6 30 DIVISION III

6 31 MISCELLANEOUS PROVISIONS

6 32 Sec. 18. SEVERABILITY. If any provision of section 9H.2,
6 33 or the application of that section, to any person or
6 34 circumstance is held invalid, the invalidity does not affect
6 35 other provisions of section 9H.2 or any other provision in
7 1 chapter 9H or 202B as those provisions existed prior to the
7 2 effective date of this Act, which shall be given effect
7 3 without the invalid provision or application, and to this end,
7 4 the provisions of this Act are severable. This section shall
7 5 not affect the transfer of provisions of chapter 9H as
7 6 provided in this Act.

7 7 Sec. 19. EFFECTIVE DATE. This Act, being deemed of
7 8 immediate importance, takes effect upon enactment.

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MARY E. KRAMER
President of the Senate

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CHRISTOPHER C. RANTS
Speaker of the House

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MICHAEL E. MARSHALL
Secretary of the Senate

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Approved _____, 2003

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7 31 THOMAS J. VILSACK

7 32 Governor